

Message Text

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ACTION EA-06

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C O N F I D E N T I A L CANBERRA 6793

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E.O. 11652: N/A
TAGS: EMIN, EFIN, EINV, SENV, AS
SUBJECT: DILLINGHAM DEVELOPMENTS

REF: (A) CANBERRA 6718, (B) CANBERRA 6717, (C) STATE 230935

1. DILLINGHAM AUSTRALIA MANAGING DIRECTOR HILL VISITED CANBERRA
SEPTEMBER 29 AT AMBASSADOR'S INVITATION FOR LUNCHEON MEETING TO
DISCUSS DEVELOPMENTS AND PROSPECTS IN DILLINGHAM CASE.

2. PRINCIPAL DEVELOPMENTS IN PAST WEEK HAS BEEN (1) DILLINGHAM'S
RECEIPT OF OFFICIAL LETTER FROM ACTING MINISTER FOR NATIONAL
RESOURCES, NIXON, FORMALLY ADVANCING A DOLS 4 MILLION OFFER
PREVIOUSLY ANNOUNCED BY DEPRIMIN ANTHONY (CANBERRA 6717);
(2) EXTEMPORANEOUS COMMENTS ON DILLINGHAM CASE REPORTEDLY MADE
BY PRIME MINISTER FRASER DURING BRISBANE POLITICAL APPEARANCE
(WE HAVE NO CONFIRMED TEXT OF THESE REMARKS) TO THE GENERAL
EFFECT THAT IN THE UNITED STATES THERE IS USUALLY NO QUESTION
OF COMPENSATION WHERE COMPANIES ARE AFFECTED BY ENVIRONMENTAL
LAWS AND (3) LENGTHY PRESS COVERAGE THIS MORNING OF RESPONSE
BY HILL IN WHICH HE TOOK ISSUE WITH FRASER'S STATEMENT RE U.S.
PRACTICE, STATED THAT THE STATE DEPARTMENT HAD ENDORSED VIEWS
OF DILLINGHAM LAWYERS TO THE EFFECT THAT FULL COMPENSATION
WOULD BE PAID IF THE VALUE OF A COMPANY'S INTEREST IN THE U.S.
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WERE AFFECTED BY ENVIRONMENTAL LAWS AND SUGGESTED THAT
DILLINGHAM MIGHT DECIDE TO APPEAL TO THE AUSTRALIAN HIGH COURT,
THE INTERNATIONAL COURT OF JUSTICE, OR SEEK U.S. GOVERNMENT
ASSISTANCE. HILL WAS ALSO DESCRIBED IN THE PRESS COVERAGE
AS SUGGESTING THAT IF THE U.S. GOVERNMENT INTERVENED, IT WOULD
PRESS THE GOA TO SUBMIT THE QUESTION OF COMPENSATION TO
INDEPENDENT ARBITRATION. ONE POSSIBLE COURSE OF ACTION IN

THE EVENT OF GOA REFUSAL WAS STATED TO BE RETALIATION AGAINST AUSTRALIAN EXPORTS UNDER THE PROVISIONS OF U.S. SUGAR LEGISLATION.

3. IN THE COURSE OF TODAY'S DISCUSSIONS WE SUGGESTED, AND HILL FULLY CONCURRED, THAT IN VIEW OF THE PRIME MINISTER'S RIGID PUBLIC POSITION IT WAS PROBABLY COUNTERPRODUCTIVE AT THIS STAGE TO ENCOURAGE FURTHER PUBLICITY OR SPECULATION ON THE POSSIBILITY OF U.S. GOVERNMENT INTERVENTION. THE PRIME MINISTER'S PUBLIC COMMITMENT TO HIS PRESENT POSITION IS SUCH THAT IT WAS QUESTIONABLE WHETHER DIPLOMATIC PRESSURE COULD PRODUCE ANY MAJOR CHANGE, AND VIRTUALLY CERTAIN THAT ANY DIPLOMATIC APPROACH SHORT OF A MAJOR AND COSTLY CONFRONTATION WOULD BE INEFFECTIVE.

4. WE WORKED OUT WITH HILL AN ALTERNATIVE SCENARIO IN WHICH HE FULLY CONCURS AND WHICH HE PROPOSES TO PLACE BEFORE THE PRESIDENT OF DILLINGHAM AT THE END OF THIS WEEK IN HONOLULU. THIS SCENARIO CONTEMPLATES ENLISTING THE ASSISTANCE OF ONE OR POSSIBLY TWO PRISTIGEOUS AUSTRALIANS WHO HAVE IMPECCABLE CREDENTIALS AS DISINTERESTED PARTIES CONCERNED OVER THE LARGER AUSTRALIAN INTEREST, TO APPROACH THE PRIME MINISTER AND IMPRESS UPON HIM THE SERIOUS DAMAGE WHICH THE GOA'S INADEQUATE COMPENSATION IS NOW DOING TO AUSTRALIA'S IMAGE AS AN INVESTMENT HOST. UNDER THIS PLAN THEY WOULD URGE THE PRIME MINISTER TO TAKE NOTE OF MISINFORMATION HE RECEIVED ON U.S. PRACTICE IN CONFIDENTIAL

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SUCH CASES, AND ON THIS BASIS, AND SOLELY IN THE INTERESTS OF AUSTRALIA'S INVESTMENT POSITION, AGREE TO APPOINT A DISTINGUISHED PANEL OF PRIVATE CITIZENS TO MAKE AN INDEPENDENT INVESTIGATION AND RECOMMENDATION AS TO THE PROPER LEVEL OF COMPENSATION. HILL'S OWN THINKING HAD APPARENTLY ALREADY PROCEEDED PART WAY IN THIS DIRECTION, SINCE HE ALREADY HAD IN MIND AN EXCELLENT CANDIDATE FOR THIS INTERMEDIARY ROLE. HE AGREES WITH US THAT THIS APPROACH IS THE MOST PROMISING STEP TO TAKE AT THIS TIME AND IS CONFIDENT THAT DILLINGHAM MANAGEMENT WILL AGREE WITH IT WHEN HE PRESENTS THE PLAN IN HONOLULU. HE HAS PROMISED TO ADVISE US EARLY NEXT WEEK OF THE OUTCOME OF HIS HONOLULU DISCUSSION.

5. HILL WILL RECOMMEND TO DILLINGHAM PRESIDENT CORNUELLE THAT LATTER URGE SENATOR INOUE TO MAKE NO FURTHER PUBLIC PRONOUNCEMENTS ON THE DILLINGHAM MATTER WHILE THE PROPOSED MOVE OUTLINED ABOVE IS TAKEN.

6. EMBASSY WILL REPORT FURTHER DEVELOPMENTS WHEN IT HEARS FROM HILL. ALSTON

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Message Attributes

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